

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**ISC Building Materials, Inc.,
Debtor**

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CASE NO. 10-35732

CHAPTER 11

EMERGENCY MOTION RESPECTING AUCTION SET FOR FRIDAY 2-4-2011

TO THE HONORABLE KAREN K BROWN, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, ISC BUILDING MATERIALS, INC., and respectfully moves and says as follows:

1. On January 24, 2011 the court entered the Order Approving Sales and Bidding Procedures for Lot B, Ennis only (Doc# 290).
2. Those procedures assigned Wednesday February 2 at 5:00 PM as the last day for bidders to qualify to appear and bid. As of 5:00 PM on the 2nd, two bidders have qualified to bid.
3. The same order specified Friday February 4, 2011 as the date for the final live auction of the Ennis Lumber Yard to be held at the offices of GulfStar Group, II, Ltd., in Houston, Texas commencing at 9:00 AM.
4. The Stalking Horse bidder is from Ennis, Texas.
5. The additional qualified bidder is from New York.
6. Given current weather forecasts it would present a significant burden, and perhaps

risk, to both GulfStar and the bidders if the auction proceeded as per the court's order.

7. GulfStar Group has both conference audio and shared computer screen hosting capabilities and can provide an auction process which both qualified bidders can attend remotely.
8. Further, GulfStar has been informed that the second bidder, not the Stalking Horse, may decline to bid at all.
9. Given the emergency nature of this Motion, it is not possible to provide advance notice to all interested parties in the case. Counsel has consulted Counsel for the Unsecured Creditors Committee and Counsel for Comerica Bank, and both agree that the relief requested herein is proper.
10. The grant of this Motion would be in the best interests of the Estate and all interested parties in this Auction process.
11. The relief sought herein lies within the sound discretion of the court. 11 USC 105.

WHEREFORE, Debtor respectfully moves for the following relief:

- A. Review this motion EX PARTE and grant the relief requested below, or, in the alternative, schedule a telephonic hearing at the court most immediate convenience to consider this matter.
- B. Grant the Debtor and GulfStar permission to hold the Auction scheduled for

tomorrow morning by means of tele-conference instead of requiring live attendance with GulfStar providing reasonable verification of participant credentials.

- C. Grant the Debtor permission to cancel the Auction entirely and instruct GulfStar to announce that the Stalking Horse is the winner of the Auction if, but only if, the second bidder informs Counsel for the Debtor that it will not be participating in the Auction process at all.
- D. For such other and further relief as the court may deem just and proper.

Dated: February 3, 2011.

Respectfully Submitted,
ISC Building Materials, Inc.
By its attorney
Wyatt Legal Services, PLLC

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